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ABSTRACT

The American Library Association (ALA) expresses the basic principles of librarianship in its "Code of Ethics" and in the "Library Bill of Rights" and its interpretations. All library system and network policies, procedures or regulations relating to electronic resources and services should be scrutinized for potential violation of user rights. User policies should be developed according to the policies and guidelines established by the ALA. Users should not be restricted or denied access for expressing or receiving constitutionally protected speech. Although electronic systems may include distinct property rights and security concerns, such elements may not be employed as a subterfuge to deny users' access to information. Users have both the right of confidentiality and the right of privacy and the rights of minors shall in no way be abridged. Electronic information, services, and networks provided directly or indirectly by the library should be equally, readily and equitably accessible to all library users. Providing connections to global information, services, and networks is not the same as selecting and purchasing material for a library collection; it is left to each user to determine what is appropriate. Libraries should not deny or limit access to information available via electronic resources because of its allegedly controversial content or because of the librarian's personal beliefs or fear of confrontation. Libraries, acting within their mission and objectives, must support access to information on all subjects that serve the needs or interests of each user. In order to prevent loss of information, and to preserve the cultural record, libraries may need to expand their selection or collection development policies to ensure preservation, in appropriate formats, of information obtained electronically. A list of questions and answers are included at the end of the document. (AEF)

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Access to Electronic Information, Services, and Networks: an Interpretation of the LIBRARY BILL OF RIGHTS

INTRODUCTION

The world is in the midst of an electronic communications revolution. Based on its constitutional, ethical, and historical heritage, American librarianship is uniquely positioned to address the broad range of information issues being raised in this revolution. In particular, librarians address intellectual freedom from a strong ethical base and an abiding commitment to the preservation of the individual's rights.

Freedom of expression is an inalienable human right and the foundation for self-government. Freedom of expression encompasses the freedom of speech and the corollary right to receive information. These rights extend to minors as well as adults. Libraries and librarians exist to facilitate the exercise of these rights by selecting, producing, providing access to, identifying, retrieving, organizing, providing instruction in the use of, and preserving recorded expression regardless of the format or technology.

The American Library Association expresses these basic principles of librarianship in its *Code of Ethics* and in the *Library Bill of Rights* and its Interpretations. These serve to guide librarians and library governing bodies in addressing issues of intellectual freedom that arise when the library provides access to electronic information, services, and networks.

Issues arising from the still-developing technology of computer-mediated information generation, distribution, and retrieval need to be approached and regularly reviewed from a context of constitutional principles and ALA policies so that fundamental and traditional tenets of librarianship are not swept away.

Electronic information flows across boundaries and barriers despite attempts by individuals, governments, and private entities to channel or control it. Even so, many people, for reasons of technology, infrastructure, or socio-economic status do not have access to electronic information.

In making decisions about how to offer access to electronic information, each library should consider its mission, goals, objectives, cooperative agreements, and the needs of the entire community it serves.

The Rights of Users

All library system and network policies, procedures or regulations relating to electronic resources and services should be scrutinized for potential violation of user rights.

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User policies should be developed according to the policies and guidelines established by the American Library Association, including *Guidelines for the Development and Implementation of Policies, Regulations and Procedures Affecting Access to Library Materials, Services and Facilities.*

Users should not be restricted or denied access for expressing or receiving constitutionally protected speech. Users' access should not be changed without due process, including, but not limited to, formal notice and a means of appeal.

Although electronic systems may include distinct property rights and security concerns, such elements may not be employed as a subterfuge to deny users' access to information. Users have the right to be free of unreasonable limitations or conditions set by libraries, librarians, system administrators, vendors, network service providers, or others. Contracts, agreements, and licenses entered into by libraries on behalf of their users should not violate this right. Users also have a right to information, training and assistance necessary to operate the hardware and software provided by the library.

Users have both the right of confidentiality and the right of privacy. The library should uphold these rights by policy, procedure, and practice. Users should be advised, however, that because security is technically difficult to achieve, electronic transactions and files could become public.

The rights of users who are minors shall in no way be abridged.[1]

Equity of Access

Electronic information, services, and networks provided directly or indirectly by the library should be equally, readily and equitably accessible to all library users. American Library Association policies oppose the charging of user fees for the provision of information services by all libraries and information services that receive their major support from public funds (50.3; 53.1.14; 60.1; 61.1). It should be the goal of all libraries to develop policies concerning access to electronic resources in light of *Economic Barriers to Information Access: an Interpretation of the Library Bill of Rights* and *Guidelines for the Development and Implementation of Policies, Regulations and Procedures Affecting Access to Library Materials, Services and Facilities.*

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[1] See: *Free Access to Libraries for Minors: an Interpretation of the Library Bill of Rights; Access to Resources and Services in the School Library Media Program; and Access for Children and Young People to Videotapes and Other Nonprint Formats.*

Information Resources and Access

Providing connections to global information, services, and networks is not the same as selecting and purchasing material for a library collection. Determining the accuracy or authenticity of electronic information may present special problems. Some information accessed electronically may not meet a library's selection or collection development policy. It is, therefore, left to each user to determine what is appropriate. Parents and legal guardians who are concerned about their children's use of electronic resources should provide guidance to their own children.

Libraries and librarians should not deny or limit access to information available via electronic resources because of its allegedly controversial content or because of the librarian's personal beliefs or fear of confrontation. Information retrieved or utilized electronically should be considered constitutionally protected unless determined otherwise by a court with appropriate jurisdiction.

Libraries, acting within their mission and objectives, must support access to information on all subjects that serve the needs or interests of each user, regardless of the user's age or the content of the material. Libraries have an obligation to provide access to government information available in electronic format. Libraries and librarians should not deny access to information solely on the grounds that it is perceived to lack value.

In order to prevent the loss of information, and to preserve the cultural record, libraries may need to expand their selection or collection development policies to ensure preservation, in appropriate formats, of information obtained electronically.

Electronic resources provide unprecedented opportunities to expand the scope of information available to users. Libraries and librarians should provide access to information presenting all points of view. The provision of access does not imply sponsorship or endorsement. These principles pertain to electronic resources no less than they do to the more traditional sources of information in libraries.[2]

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[2] See: *Diversity in Collection Development: an Interpretation of the Library Bill of Rights*

QUESTIONS AND ANSWERS

Access to Electronic Information, Services and Networks: An Interpretation of the *Library Bill of Rights*

In January of 1996, the American Library Association (ALA) approved *Access to Electronic Information, Services and Networks: An Interpretation of the Library Bill of Rights*. ALA's Intellectual Freedom Committee then convened to produce a sample set of questions and answers to clarify the implications and applications of this Interpretation.

Many of the following questions will not have a single answer. Each library must develop policies in keeping with its mission, objectives, and users. Librarians must also be cognizant of local legislation and judicial decisions that may affect implementation of their policies. All librarians are professionally obligated to strive for free access to information.

INTRODUCTION

1. What are the factors that uniquely position American librarianship to provide access to electronic information?

Electronic media offer an unprecedented forum for the sharing of information and ideas envisioned by the Founding Fathers in the U.S. Constitution. Their vision cannot be realized unless libraries provide free access to electronic information, services, and networks.

Thomas Jefferson, James Madison, and others laid the basis for a government that made education, access to information, and toleration for dissent cornerstones of a great democratic experiment. With geographic expansion and the rise of a mass press, American government facilitated these constitutional principles through the creation of such innovative institutions as the public school, land grant colleges, and the library. By the close of the 19th century, professionally trained librarians developed specialized techniques in support of their democratic mission. In the 1930's, the *Library Bill of Rights* acknowledged librarians' ethical responsibility to the Constitution's promise of access to information in all formats to all people.

2. What is the library's role in facilitating freedom of expression in an electronic arena?

Libraries are a national information infrastructure providing people with access and participation in the electronic arena. Libraries are essential to the informed debate demanded by the Constitution and for the provision of access to electronic information resources to those who might otherwise be excluded.

3. Why should libraries extend access to electronic information resources to minors?

Those libraries with a mission that includes service to minors should make available to them a full range of information necessary to become thinking adults and the informed electorate envisioned in the Constitution. The opportunity to participate responsibly in the electronic arena is also vital for nurturing the information literacy skills demanded by the Information Age. Only parents and legal guardians have the right and responsibility to restrict their children's — and only their own children's — access to any electronic resource.

4. Do ALA intellectual freedom and ethics policies apply to the provision of access to electronic information, services and networks?

Yes, because information is information regardless of format. Library resources in electronic form are increasingly recognized as vital to the provision of information that is the core of the library's role in society.

5. Does the ALA require that libraries adopt the Library Bill of Rights or the ALA Code of Ethics?

No. ALA has no authority to govern or regulate libraries. ALA's policies are voluntary and serve only as guidelines for local policy development.

6. Does ALA censure libraries or librarians who do not adhere to or adopt the *Library Bill of Rights* or the ALA *Code of Ethics*?

No.

7. Do libraries need to develop policies about access to electronic information, services, and networks?

Yes. Libraries should formally adopt and periodically reexamine policies that develop from the missions and goals specific to their institutions.

RIGHTS OF USERS

8. What can we do when vendors/network providers/licensors attempt to limit or edit access to electronic information?

Librarians should be strong advocates of open access to information regardless of storage media. When purchasing electronic information resources, libraries should thus attempt to

empower themselves during contract negotiations with vendors/network providers/licensors to ensure the least restrictive access in current and future products.

Libraries themselves along with any parent institution and consortia partners should also communicate their intellectual freedom concerns and public responsibilities in the production of their own electronic information resources.

9. How can libraries help to ensure library user confidentiality in regard to electronic information access?

Librarians must be aware of patron confidentiality laws on library records for their particular state and community. In accordance with such laws and professional ethical responsibilities, librarians should ensure and routinely review policies and procedures for maintaining confidentiality of personally identifiable use of library materials, facilities, or services. These especially include electronic circulation and online use records. Hence, libraries and their consortiums should ensure that their automated circulation systems, other electronic information resources, and outside provider services strive to conform to applicable laws and the library's ethical duty to protect confidentiality of users.

Electronic records on individual use patterns should also be strictly safeguarded. Software and protocols should be designed for the automatic and timely deletion of personal identifiers from the tracking elements within electronic databases. System access to computer terminals or other stations should also be designed to eliminate indicators of the research strategy or use patterns of any identifiable patron. For example, the efforts of the last user of a terminal or program should not remain on the monitor or be easily retrievable from a buffer or cache by subsequent users. Library or institutional monitoring for reserving time on the machines and the amount of time spent in electronic information resources should be similarly circumspect in protecting the patron's privacy rights.

Libraries and their institutions should provide physical environments that facilitate user privacy for accessing electronic information. For instance, libraries should consider placing terminals, printers, and access stations so that user privacy is enhanced. Where resources are limited, libraries should consider time, place and manner restrictions.

Finally, libraries must be sensitive to the special needs for confidential access to electronic information sources of physically challenged patrons.

10. Our library is just one of many autonomous institutions in a consortium. How can we be sure that our cooperating partners honor the confidentiality of our library users in a shared network environment?

This is a contractual and legal matter. The importance of confidentiality of personally identifiable information about library users transcends individual institutional and type of

library boundaries. Libraries should establish and regularly review interlibrary and interagency cooperative agreements to ensure clear confidentiality policies and procedures, which obligate all members of a cooperative, or all departments and branches within a parent institutions.

11. Do libraries need an "acceptable use policy" for electronic information access? If so, what elements should be considered for inclusion?

Access questions are rooted in Constitutional mandates and a Library Bill of Rights that reach across all media. These should be professionally interpreted through general service policies that also relate to the specific mission and objectives of the institution. Such general policies can benefit from the legacy and precedents within the ALA's Intellectual Freedom Manual, including new interpretations for electronic resources.

Reasonable restrictions placed on the time, place, and manner of library access should be used only when necessary to achieve substantial library managerial objectives and only in the least restrictive manner possible. In other words, libraries should focus on developing policies that ensure broad access to information resources of all kinds, citing as few restrictions as possible, rather than developing more limited "acceptable use" policies that seek to define limited ranges of what kinds of information can be accessed by which patrons and in what manner.

12. Why shouldn't parental permission be required for minor access to electronic information?

As with any other information format, parents are responsible for determining what they wish their own children to access electronically. Libraries may need to help parents understand their options during the evolving information revolution, but should not be in the policing position of enforcing parental restrictions within the library. In addition, libraries cannot use children as an excuse to violate their Constitutional duty to help provide for an educated adult electorate.

The Library Bill of Rights--its various Interpretations (especially Free Access to Libraries for Minors, Access for Children and Young People to Videotapes and Other Nonprint Formats), and ALA's Guidelines for the Development and Implementation of Policies, Regulations and Procedures Affecting Access to Library Materials, Services and Facilities--also endorse the rights of youth to library resources and information as part of their inalienable rights and the passage to informed adulthood. Electronic information access is no different in these regards.

13. Does our library have to make provisions for patrons with disabilities to access electronic information?

Yes. The Americans With Disabilities Act and other federal and state laws forbid providers of public services, whether publicly or privately governed, from discriminating against individuals with disabilities. All library information services, including access to electronic information, should be accessible to patrons regardless of disability.

Many methods are available and under development to make electronic information universally accessible, including adaptive devices, software, and human assistance. Libraries must consider such tools in trying to meet the needs of persons with disabilities in the design or provision of electronic information services.

EQUITY OF ACCESS

14. My library recognizes different classes of users. Is this a problem?

The mission and objectives of some libraries recognizes distinctions between classes of users. For example, academic libraries may have different categories of users (e.g., faculty, students, others). Public libraries may distinguish between residents and non-residents. School library media centers embrace curricular support as their primary mission; some have further expanded access to their collections. Special libraries vary their access policies depending on their definition of primary clientele. Establishing different levels of users should not automatically assume the need for different levels of access.

15. Does the statement that "electronic information, services, and networks provided directly or indirectly by the library should be equally, readily, and equitably available to all library users" mean that exactly the same service must be available to anyone who wants to use the library?

No. It means that access to services should not be denied on the basis of an arbitrary classification, for example, age or physical ability to use the equipment. This phrase, from "Economic Barriers to Information Access: An Interpretation of the Library Bill of Rights," clarifies that simply making printed information sources available to those unable to pay while charging for electronic information sources abridges the principles of equality and equity.

16. Which is a higher priority to offer more information or not to charge fees? Does this mean my library cannot charge fees?

The higher priority is free services. Charging fees creates barriers to access. That is why ALA has urged librarians, in "Economic Barriers to Information Access," to "resist the temptation to impose user fees to alleviate financial pressures, at long term cost to institutional integrity and public confidence in libraries."

17. Does "provision of information services" include printouts?

Whenever possible, all services should be without fees. Any decision to charge for service should be based on whether the fee creates a barrier to access. For example, some libraries have long provided free access to printed magazines while charging for photocopies. Translated to the electronic environment, this means that some libraries will provide the text on the screen at no charge, but might charge for printouts.

18. If my library has no "major support from public funds," can we then charge fees?

Yes, but ALA advocates achieving equitable access and avoiding and eliminating barriers to information and ideas whenever possible.

19. What do you do if one person monopolizes the equipment?

This is a policy issue to be established within each library according to its mission and goals. Time, place, and manner restrictions should be applied equitably to all users.

INFORMATION RESOURCES AND ACCESS

20. How does providing connections to "global information, services, and networks" differ from selecting and purchasing material for an individual library?

Selection begins with the institution's mission and objectives. The librarian performs an initial selection from available resources, and then the user makes a choice from that collection. Many electronic resources, such as CDs, are acquired for the library's collection in this traditional manner. Collections consist of fixed discrete items.

When libraries provide Internet access, they provide a means for people to use the wealth of information stored on computers throughout the world, whose ever-changing contents are created, maintained and made available beyond the library. The library also provides a means for the individual user to choose for him or herself the resources accessed and to interact electronically with other computer users throughout the world.

21. How can libraries use their selection expertise to help patrons use the Internet?

Libraries should play a proactive role in guiding parents to the most effective locations and answers. Library websites are one starting place to the vast resources of the Internet. All libraries are encouraged to develop websites, including links, to Internet resources to meet the information needs of their users. These links should be made within the existing mission, collection development policy and selection criteria of the library.

22. Should the library deny access to Constitutionally protected speech on the Internet in order to protect its users or reflect community values?

No. The library should not deny access to constitutionally-protected speech. People have a right to receive constitutionally-protected speech, and any restriction of those rights imposed by a library violates the U.S. Constitution.

23. Does using software that filters or blocks access to electronic information resources on the Internet violate this policy?

The use of filters implies a promise to protect the user from objectionable material. This task is impossible given current technology and the inability to define absolutely the information to be blocked.

The filters available would place the library in a position of restricting access to information. The library's role is to provide access to information from which individuals choose the material for themselves.

Technology could be developed that would allow individual users of public terminals to exercise a choice to impose restrictions on their own searches. If these types of filters become available, libraries should carefully scrutinize them in light of their mission and goals.

24. Why do libraries have an obligation to provide government information in electronic format?

The role of libraries is to provide ideas and information across the spectrum of social and political thought and to make these ideas and this information available to anyone who needs or wants it. In a democracy libraries have a particular obligation to provide library users with information necessary for participation in self-governance. Because access to government information is rapidly shifting to electronic format only, libraries should plan to continue to provide access to information in this format, as well.

25. What is the library's role in the preservation of electronic formats?

The on-line electronic medium is ephemeral and information may disappear without efforts to save it. When libraries create information, they have the responsibility to preserve and archive it, if it meets the library's mission statement.

26. Does "must support access to information on all subjects..." mean a library must provide material on all subjects for all users, even if those users are not part of the library's community of users or the material is not appropriate for the library?

The institution's mission and objectives will drive these decisions.

27. The Interpretation states that libraries should not deny access to resources solely because they are perceived to lack value. Does this mean the library must buy or obtain every electronic resource available?

No. The institution's mission and objectives will drive these decisions.

28. How can the library avoid becoming a game room and still provide access to this material?

Libraries sometimes seek to prohibit the playing of computer games because the demand for terminals exceeds the supply. The libraries impose time, place or manner restrictions to the use of electronic equipment and resources. Such restrictions should not be based on the viewpoint expressed in the information being accessed.

29. Do copyright laws apply to electronic information?

Yes. Librarians have an ethical responsibility to keep abreast of copyright and fair use rights. This responsibility applies to:

1. the library's own on-line publications,

2. contractual obligations with authors and publishers,

3. informing library users of copyright laws which apply to their use of electronic information.

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